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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,008	01/14/2004	Ismail I. Walele	FINETEX 3.0-047	3310

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EXAMINER

KILLOS, PAUL J

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/757,008	Applicant(s) WALELE ET AL.	
	Examiner Paul J. Killos	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15, 16, 18, 19, 21, 22, 24, 25 and 27 is/are rejected.
- 7) ☒ Claim(s) 11, 14, 17, 20, 23 and 26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>13/02/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4,7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/58411 A2 published 16 August 2001.

The reference teaches compounds that are homologous and have the same utility as that claimed. On page 54, the reference generically teaches C12-C15 alkyl benzoate compounds, and on page 57 isostearyl benzoate is taught.

Claims 1,4,7,10,16,19,22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO03/072077 published 04 Sept. 2003.

The reference teaches homologous compounds, isostearyl benzoate, page 23, and generically teaches C12-C15 alkyl benzoate being used in cosmetic compositions, and as sunscreen agents. It would then be obvious to one of ordinary skill in the art to prepare the homologous compounds and use them for the same methods as taught by the reference.

Claims 2,5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brazilian Patent BR 8903054 published on 31 Oct 1989, see CA 113:25693.

The reference teaches the compounds that are homologous to the claimed compounds and disclose a utility. While the utility is different from that claimed, the claimed compounds would be expected to have the utility disclosed in the prior art unless applicants can demonstrate otherwise.

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Claims 3,6,9,12,15,18,21,24, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.Pat. 5,840,285 published 24 Nov. 1998.


The reference teaches homologous compounds that find use in cosmetic compositions, which is the same as that of the instantly claimed compounds unless applicants can demonstrate to the contrary.

.Claims 11, 14,27,20, 23 and 26 are objected to as being dependent on rejected claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul J. Killos whose telephone number is 571-2720687. The examiner can normally be reached on Mon-Fri. 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. Rotman can be reached on 703-3084698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Paul J. Killos
Primary Examiner
Art Unit 1625